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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,262	05/18/1999	STANLEY DALE VIERK	A-66435/JAS/	4944

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EXAMINER

RESAN, STEVAN A

ART UNIT

PAPER NUMBER

1773

14

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AS14

Office Action Summary

Application No.

09/314262

Applicant(s)

Examiner

RESW

Group Art Unit

1773

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 9-9-2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3, 5, 7-9, 11-17, 19 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5, 7-9, 11-17, 19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-3, 5, 7-9, 11-17, 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. ***

The amendment filed 2-20-2001 introduced the claim limitation into claims 1, 7, 14, 16, and 19 that the plastic composite material is filled with viscoelastic damping particles. The term "viscoelastic" is considered new matter as there is no basis in the specification for its use. See Page 4 "classified into two groups i.e. reinforcing agents and damping agents. Examples of damping agents include elastomeric particles and the like." And page 6 line 13 "damping agents such as elastomeric particles"

Claims 2-3, 5, 8-9, 11-13, 15, 17 are rejected for depending from a claim rejected under 35 USC 112

In order to overcome this rejection the examiner suggests replacing "viscoelastic" with "elastic".

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4. Claims 1-3, 5, 7-9, 11-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landin et al Re. 36,806 in view of McCormack 4,726,007 and Fujii JP 08-073676 for the reasons of record.

5. Applicant's arguments filed 9-9-2002 have been fully considered but they are not persuasive.

Applicants argue that the limitation that the plastic composite material is filled with viscoelastic damping particles and anisotropic reinforcing agents patentably distinguishes over the references.

However, note in Landin's discussion Col 8 line 8-Col 9 line 9 that particles are desired that increase the damping capability of the viscoelastic damping material. Specifically at Col 9 line 1 cured epoxy "nodules" are taught. "Nodules" given its broadest meaning includes or is synonymous with "particles".

Epoxy is a resin which itself has damping properties see e.g. Landin Col 6 line 53 "epoxy acrylate" and the discussion at Col 6 lines 1-31 of loss factors. Of course Landin does also disclose anisotropic reinforcing agents i.e. fibrous fillers such as glass and carbon fibers.

Fuji clearly disclose that rubber particles ($T_g < -20^\circ\text{C}$) grafted to a polymer ($T_g -20$ to 60°C) may be added to a rigid polymer ($T_g > 60^\circ\text{C}$) to improve vibration damping characteristics.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stevan A. Resan whose telephone number is (703) 308-

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4287. The examiner can normally be reached on Tuesday--Friday from 7:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703) 308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 308-2351 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0611



STEVAN A. RESAN
PRIMARY EXAMINER